SH2296738

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761551N25A - SH - AD 32A (2/72)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

"A Tradition of Service"

DATE July 5, 2012

OFFICE CORRESPONDENCE FILE NO. IAB SH2296738

FROM: DIANE E. WALKER, CAPTAIN
COMPTON STATION

TO: JAIME JUAREZ, DEPUTY
COMPTON STATION

SUBJECT: WRITTEN REPRIMAND

On or about September 9, 2011, while engaged in a foot pursuit of a potentially armed suspect, you failed to initiate a radio broadcast with appropriate information necessary within the first few seconds in order to ensure adequate resources could be coordinated to assist you and your partner (Deputy [redacted]) in apprehending the pursued suspect.

You are hereby reprimanded for failing to follow an order and carry out a specific duty and responsibility assigned to you pursuant to the following excerpts of the Department's Manual of Policy and Procedures:

3-01/030.10 OBEDIENCE TO LAWS, REGULATIONS AND ORDERS
Members, who violate any rules, regulations, or policies of the Department or the County, shall be subject to disciplinary action.

5-09/220.50 FOOT PURSUITS
Deputy personnel initiating a foot pursuit shall broadcast the following information to SCC within the first few seconds:

- *Unit identifier,*
- *Suspect location and direction,*
- *Reason for the foot pursuit,*
- *Suspect description,*
- *Whether or not the suspect is armed, if known.*

Barring extenuating circumstances, if a Deputy is unable to promptly and successfully broadcast this information, the foot pursuit shall be terminated and containment immediately established.

You are admonished that future actions of this nature may result in more severe discipline.

I have read and received a copy of this memorandum.

Jaime Juarez — Date 7/5/12

Witness — Date 7/5/12

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT
A Tradition of Service

DATE: June 18, 2012
FILE NO:

OFFICE CORRESPONDENCE

FROM: MICHAEL J. ROTHANS, COMMANDER
FIELD OPERATIONS REGION III

TO: JOHN H. CLARK, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS:

Case Number:	SH2296738
Incident:	Hit Shooting
Incident Date:	September 9, 2011
Unit:	Compton Station/FOR II
Suspect:	Brian D. Jones, M/22
Involved Employees:	Deputy Jaime Juarez Deputy [redacted]
EFRC Date:	June 13, 2012

The Executive Force Review Committee consisting of Commander Michael Rothans, Commander Anthony La Berge, and Commander Stephen Johnson met and reviewed the above case.

FINDINGS:

The Committee determined the force used by Deputy Juarez was objectively reasonable and in compliance with Department Policy. The tactics are addressed under separate cover memorandum.

RECOMMENDATIONS:

The Committee recommended Deputy Juarez and Deputy [redacted] attend eight hours of Tactics and Survival Training, class 2A. Additionally, the Committee recommended the unit commander, Captain Diane E. Walker, conduct a unit wide briefing regarding the unique circumstances of this incident.

MJR:JER:jer

761551N25A - SH-AD-32A (2/72)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

A Tradition of Service

DATE: June 18, 2012

OFFICE CORRESPONDENCE

FILE NO. IV2314663
SH2296738

FROM: MICHAEL J. ROTHANS, COMMANDER
FIELD OPERATIONS REGION III

TO: JOHN CLARK, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS AND RECOMMENDATIONS USE OF FORCE**

The purpose of this memo is to notify you of the Review Committee's findings and recommendations concerning the hit shooting incident which occurred on March 12, 2011.

The Committee met on June 13, 2012, and consisted of me, Commander Stephen B. Johnson, Custody Operations Division, and Commander Anthony La Berge, Field Operations Region I.

The Committee deemed:

- as **Founded** the allegation that Deputy Jaime Juarez, #[redacted] in violation of the Department's Manual of Policy and Procedures, Section(s) 3-01/030.10, Obedience to Laws, Regulations and Orders (Specifically pertaining to, 5-09/220.50, Foot Pursuits), on or about September 9, 2011, while engaged in a foot pursuit of a potentially armed suspect, he failed to initiate a radio broadcast with appropriate information necessary within the first few seconds in order to ensure adequate resources could be coordinated to assist himself and his partner, Deputy [redacted] in apprehending the pursued suspect.

The Committee recommended that Deputy Jaime Juarez, #[redacted] receive a **Written Reprimand**.

MJR:JER:jer

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

A Tradition of Service

DATE: June 18, 2012

OFFICE CORRESPONDENCE

FILE NO. IV2314663
SH2296738

FROM: MICHAEL J. ROTHANS, COMMANDER
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TO: JOHN CLARK, CAPTAIN
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The Committee deemed:

- as **Founded** the allegation that Deputy [redacted] #[redacted] in violation of the Department's Manual of Policy and Procedures, Section(s) 3-01/030.10, Obedience to Laws, Regulations and Orders (Specifically pertaining to, 5-09/220.50, Foot Pursuits), on or about September 9, 2011, while engaged in a foot pursuit of a potentially armed suspect, he failed to initiate a radio broadcast with appropriate information necessary within the first few seconds in order to ensure adequate resources could be coordinated to assist himself and his partner, Deputy Jaime Juarez, in apprehending the pursued suspect.

The Committee recommended that Deputy [redacted] #[redacted] receive a **Written Reprimand**.

MJR:JER:jer

DISPOSITION WORKSHEET

Re: SH2296738
Subject: **Jaime Juarez #[redacted]**
Investigator: Sgt. David Bly #[redacted]
Advocate: Paul Patterson, Sergeant

SUMMARY:

(Insert here)

DISPOSITION OF CHARGES

The following potential charges were prepared by the Advocacy Unit. Please indicate your disposition of the potential charges, and put any additional sustained charges (with reference to the investigation) on attached sheet(s).

Potential Charge(s):

1. That in violation of the Department's Manual of Policy and Procedures, Section(s) 3-01/030.10, Obedience to Laws, Regulations and Orders (Specifically pertaining to, 5-09/220.50, Foot Pursuits), on or about September 09, 2011, while engaged in a foot pursuit of a potentially armed suspect, Subject Jaime Juarez failed to initiate a radio broadcast with appropriate information necessary within the first few seconds in order to ensure adequate resources could be coordinated to assist Subject Jaime Juarez and the subject's partner (Deputy [redacted] in apprehending the pursued suspect.

Evidence Reference:

____

Defenses/Conflicting Evidence:

____

Disposition:

__X__ **Charge founded as delineated**
_____ **Charge founded as modified**
_____ **Charge unresolved**
_____ **Charge unfounded**

Discipline Assessment

Review of Applicable Guidelines for discipline Section:

The Department's Guidelines for Discipline (Revised March 20, 2011) lists the following Analogous misconduct with associated disciplinary penalties:

Conduct	Standard Discipline
Obedience to Laws, regulations and Orders	W/R to 5days

Determination of Discipline:

Based upon the attached assessment of mitigating and aggravating factors, the following discipline has been determined to be appropriate. This discipline is subject to revision upon receipt of the subject's response of grievance.

_____ **Discharge**
_____ **Reduction in Rank**
_____ **Suspension with loss of pay and benefits for __ days**
__X__ **Written Reprimand**
_____ **No discipline**

Assessment of Mitigating and Aggravating Factors:

The following describe the mitigating and aggravating factors in the determining the discipline in this investigation. Those factors include:

Intent	Truthfulness
Past Performance	Severity of Infraction
Degree of Culpability	Acceptance of Responsibility
Disciplinary History	Other Factors

Management has considered the subject's performance, which is documented in the Subject's Department personnel file, and those documents not contained in that file which are attached to the disposition worksheet.



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
JACQUELYN LACEY • Chief Deputy District Attorney
PATRICK R. DIXON • Assistant District Attorney

JANICE L. MAURIZI • Director

January 5, 2012

Captain David Smith
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

RE: J.S.I.D. File #11-0605
L.A.S.D. File #011-13346-2830-055

Dear Captain Smith:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the September 9, 2011, non-fatal shooting of Brian Dwayne Jones by Los Angeles County Sheriff's Department (LASD) Deputy Jaime Juarez. We have concluded that Deputy Juarez acted lawfully in self-defense and defense of his partner, Deputy [redacted]

The following analysis is based upon investigative reports, analyzed evidence reports and witness statements taken during the investigation by the LASD and submitted to this office by Sergeants John Fredendall and Kenneth Clark. The District Attorney Command Center was notified of the shooting at approximately 11:20 p.m., on September 9, 2011. The District Attorney Response Team, comprised of Deputy District Attorney Jason Lustig and District Attorney Senior Investigator Andy Le, responded to the location. They were given a briefing of the circumstances surrounding the shooting and a walk-through of the scene. Compelled statements were not considered in this analysis.

FACTUAL ANALYSIS

On September 9, 2011, at about 9:20 p.m., Deputies [redacted] (driver) and Juarez (passenger) were on uniformed patrol in a marked patrol car driving east on Alondra Boulevard when they saw Brian Jones speeding south on Central Avenue in the City of Compton. Jones made a right turn at a high rate of speed, causing his car's tires to screech and smoke as he continued west on Alondra Boulevard. Deputy [redacted] made a U-turn and tried to catch up to Jones who made an abrupt lane change to narrowly avoid colliding into another vehicle traveling in the same direction. Out of the deputies' sight, Jones made a right turn north on Aprilia Avenue, struck a

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parking restriction sign on the west sidewalk, veered back on the roadway and veered back off the road striking a brick wall where the vehicle came to rest. When the deputies reached the intersection of Alondra Boulevard and Aprilia Avenue, they saw Jones' car smoking on the sidewalk against the wall. As [redacted] drove closer to investigate, the deputies saw Jones crawl out of the front passenger window with what appeared to both deputies to be a black handgun in his right hand. Jones jumped from the window and ran north on Aprilia Avenue towards Cypress Street.

When the patrol car stopped, Juarez, followed by [redacted] ran after Jones who continued running east on Cypress Street with his hands near his waistband, ignoring the deputies' orders to stop. As the deputies began to run after Jones, [redacted] yelled, "Gun!" Jones turned his left shoulder towards the pursuing deputies as if he was going to face them. Believing that Jones was armed and about to shoot at him and his partner, Juarez fired one or two rounds from his service weapon at Jones. Jones turned back away from the deputies and continued to run east on Cypress Street with his hands near his waistband out of the deputies' view. Juarez ordered Jones to stop running. Jones again turned to his left and Juarez fired one or two rounds at him. Jones discarded his sweater. He continued running east and then north between two parked cars. Juarez followed, his sight of Jones momentarily blocked by a car. While running on the north sidewalk of Cypress Street, Jones turned his left shoulder towards Juarez, who fired a third volley of one or two rounds at Jones.[1] With Juarez five to 10 feet away, Jones went to the ground, put his hands in the air and surrendered. [redacted] handcuffed Jones, who was bleeding from a gunshot wound to his right arm.

Jones was transported to UCLA Harbor General Medical Center where he was treated for one gunshot wound to his right forearm. His blood showed evidence of alcohol consumption (.02%).

No weapons were recovered from Jones or the surrounding area. The deputies did not see Jones make any movements consistent with discarding a weapon. The deputies were unable to explain what happened to the gun they had seen Jones holding. While returning to the patrol car, the deputies observed people along the route of the foot pursuit.

In case number 1CP06706, the District Attorney's Office filed 2 misdemeanor counts against Jones for resisting arrest and driving with a suspended license. On September 13, 2011, Jones pleaded guilty to resisting arrest.[2]

Approximately two and a half years before this incident, Juarez and [redacted] were involved in an on duty shooting, in which Juarez was shot.

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[1] Juarez was armed with a Beretta, model 92F, 9mm semiautomatic handgun. He fired seven rounds during the incident. [redacted] had his gun drawn during the pursuit, but did not fire any rounds because his partner was in his field of fire.
[2] Jones' criminal history reflects several prior arrests for firearms violations.

Statement of Brian Dwayne Jones

On September 10, 2011, at 6:11a.m., Jones was interviewed in jail after being treated in the hospital. After waiving his *Miranda* rights, Jones told investigators that he was walking down the street and began running when the deputy said to "come here." He was "running and man the police was chasing after me and he started shooting. He hit me in the arm once from behind and I tried to keep running but it was hurting too much so I told them I give up and stuff and got on the grass and he got on top of me." Jones denied having driven the crashed car. Jones claimed that he runs from the police every time he sees them. He denied having a weapon. He claimed that the deputies never gave him any orders to stop.[3]

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others that he actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. (*People v. Williams* (1977) 75 Cal.App.3d 731.)

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. (*California Criminal Jury Instructions* 3470.) If the person's beliefs were reasonable, the danger does not need to have actually existed. *Id.*

When the peril is swift and imminent and the necessity for action immediate, the law does not weigh into nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety. (*People v. Collins* (1961) 189 Cal. App.3d 575).

The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight. . . . The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation. *Graham v. Conner* (1989) 490 U.S. 386, 396-397.

CONCLUSION

The evidence examined in this investigation shows that Deputies Juarez and [redacted] were attempting to capture Brian Jones who had been driving recklessly, collided into a wall and was

[3] Nancy Guzman was inside of her Cypress Street residence and heard a vehicle collision. When she exited, she saw the deputies standing outside of their patrol car shouting to a male to exit the crashed vehicle and "go to the ground." The male exited the passenger window, initially complied with the deputies' orders, but then ran away. For her safety, Guzman went back inside and heard three gunshots.

fleeing the scene. Both deputies believed that they saw a firearm in Jones' hand when he exited the vehicle. Ignoring the deputies' orders to stop running and with his hands near his waistband, Jones began to turn as if to face the deputies three times as he was fleeing. Each time, reasonably believing that Jones was about to shoot at him and his partner, Juarez fired one or two rounds from his service weapon at Jones, striking him once. Eventually, Jones surrendered and was taken into custody.

It is unclear from the evidence presented whether the deputies were mistaken that Jones had a gun or whether Jones discarded the firearm unbeknownst to them. Nevertheless, we conclude that Jones' actions placed the deputies in reasonable fear of death or great bodily injury causing Deputy Juarez to respond with deadly force. Jones drove the vehicle recklessly without regard to human life. After colliding with the wall, Jones fled from the scene of the collision and ignored the deputies' commands to stop. The deputies were reasonable in believing that Jones was a dangerous criminal willing to resort to deadly force to effectuate his escape. By fleeing with his hands near his waistband, Jones was giving the deputies every reason to believe that he was armed. Each time he began to turn on the deputies showing no signs of surrender, Deputy Juarez was reasonable in believing that Jones might shoot at them. The lawful use of self-defense does not require that the danger actually existed so long as the beliefs of the person acting in self-defense were reasonable. Under these circumstances, Deputy Juarez' belief that Jones might use deadly force to escape was reasonable.

Given the rapidly evolving, life threatening situation that confronted Deputy Juarez, we conclude that he acted lawfully in self-defense and defense of Deputy [redacted] We are therefore closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By

JASON P. LUSTIG
Deputy District Attorney
(213) 974-3888

c: Deputy Jaime Juarez #[redacted]